

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

RONALD D. VETETO,)
)
Petitioner,)
)
v.) 2:99-cv-02403-SLB
)
WARDEN ROY HIGHTOWER)
and THE ATTORNEY GENERAL)
OF THE STATE OF ALABAMA,)
)
Respondents.)

MEMORANDUM OPINION

The magistrate judge assigned this habeas corpus case entered a lengthy report and recommendation on October 31, 2005, finding the petitioner's claims insufficient to merit any relief. Accordingly, it was recommended that the petition be dismissed with prejudice. The magistrate judge afforded the petitioner the customary fifteen (15) days to file any objections to the report and recommendation.

On the same day, the petitioner filed an "Objection to Magistrate Judge's Order and Motion for Recusal." (Doc. 139). Therein, the petitioner objected to the magistrate judge's order of October 20, 2005, wherein the court "once again denied [the petitioner's] motion seeking to have the respondents arrange for and pay the costs of having certain material returned to him. He also assert[ed] that if these materials [were] not returned to him, he w[ould] not be able to properly object to the Report and Recommendation. Finally, he assert[ed] that if his objection [was] not granted, the undersigned and Magistrate Judge John Ott should be recused from further consideration of this matter." (Doc. 141 at p. 1). The court overruled the petitioner's objections, finding that "[t]he petitioner ha[d] demonstrated his ability to evaluate, present, and argue his

claims for relief under the present circumstances. This is best demonstrated by his sixty-seven page reply to the respondents' answer." (*Id.*). The court also denied his motion for recusal. (*Id.*). The undersigned noted that "[t]his court and the Eleventh Circuit Court of Appeals have previously denied similar motions from the petitioner. (See Doc. 122, pp. 3-4). The court sees no reason at this juncture to depart from the previous determinations. The petitioner has not demonstrated any reason to question the impartiality of the judges assigned to this matter. *See 28 U.S.C. § 455(a).*" (Doc. 141 at p. 1). Lastly, the undersigned informed the petitioner that his objections to the report and recommendation were due on December 30, 2005. (*Id.* at p. 2).

On January 15, 2006, the petitioner filed a pleading captioned "Objections and Motions." (Doc. 142). It includes pages 29-42 of his objections to the report and recommendation and a request to file a supplemental brief. (*Id.* at p. 1). On January 21, 2006, Judge Ott afforded the petitioner an additional twenty (20) days to file all of his objections. Because the court had not received pages 1-28 of the petitioner's objections, Judge Ott notified the petitioner and afforded him twenty (20) days to file the same.

On January 30, 2006, the petitioner objected to Judge Ott's order stating that "pages 1-28 have been filed in previous installments with motions filed November 10 and 14, and December 1, 2005, and in later installments. The installments and motions were in the same envelopes." (Doc. 143 at p. 1). He further states that he "knows that these motions and installments were filed in this proceeding because Sharon Blackburn responded to the motions, addressed the issues in the motions and acknowledged and referred to the installments in her 'Order' filed December 19, 2005, before the final installments, pp. 29-42, were mailed." (*Id.* (underline in original)). He then complains that "Judge Ott has repeatedly impeded, obstructed and maliciously handicapped

and vitiated Vetetto's ability and efforts to litigate this petition." (*Id.*). The petitioner concludes by "demand[ing] that this court search and find all pages of Veteto's 'Objections to Magistrate Judge's Report and Recommendation and Motions' and remove Ott from this case permanently." (*Id.*).

To the extent the petitioner seeks removal of Judge Ott, the request is due to be denied. The court has conducted an examination of the filings in this case and has requested that the Clerk of the Court conduct a search for the objections the petitioner asserts that he has filed. As a result of those efforts, the court is satisfied that the first 28 pages of the petitioner's objections have not been received. However, after closely examining the pages that have been received, the court recognizes that they are reiterations of the petitioner's earlier response to the respondents' answer. That response includes five pleadings and a total of 67 pages of hand-written, single-spaced arguments. (Doc. 126, 131, 133-34 & 136).

On February 13, 2006, the petitioner filed a "Supplemental Brief," supplementing his previous objections. (Doc. 144). In an effort to afford the petitioner the fullest scope of review possible, the court will examine the report and recommendation in view of his specific objections that were received and his supplemental brief, and will treat his previous 67-page response to the answer in the same light.

The court has considered the entire file in this action together with the Magistrate Judge's Report and Recommendation and the objections, the supplemental brief, and the response of the petitioner (doc. 126, 131, 133-34 & 136), and has reached an independent conclusion that the Magistrate Judge's Report and Recommendation is due to be adopted and approved. The court hereby adopts and approves the findings and recommendation of the magistrate judge as the

findings and conclusions of the court. In accord with the recommendation, this petition for writ of habeas corpus is due to be denied and dismissed with prejudice. An appropriate order will be entered.

DONE, this 31st day of March, 2006.

Sharon Lovelace Blackburn
SHARON LOVELACE BLACKBURN
UNITED STATES DISTRICT JUDGE